

Bankruptcy Terminology

ADVERSARY PROCEEDING A lawsuit arising in or related to a bankruptcy case that is commenced by filing a complaint with the bankruptcy court.

ASSUME

An agreement to continue performing duties under a contract or lease,

AUTOMATIC STAY

An injunction that automatically stops lawsuits, foreclosure, garnishments, and all collection activity against the debtor the moment a bankruptcy petition is filed.

BANKRUPTCY

A legal procedure for dealing with debt problems of individuals and businesses; specifically, a case filed under one of the chapters of title 11 of the United States Code (the Bankruptcy Code).

LIST OF TERMS

Most debtors who file bankruptcy, and many of their creditors, know very little about the bankruptcy process. The Public Information Series of the Bankruptcy Judges Division is designed to provide debtors, creditors, judicial employees, and the general public with a basic explanation of bankruptcy and how it works. The series features eight pamphlets that discuss Chapter 7 (liquidation), Chapter 13 (adjustment of debts of an individual with regular income), Chapter 12 (adjustment of debts of a family farmer or fisherman or rancher), Chapter 11 (reorganization), Chapter 9 (adjustment of debts of a municipality), SIPA (the Securities Investor Protection Act), the bankruptcy discharge and bankruptcy terminology. This pamphlet on bankruptcy terminology explains, in layman's terms, many of the legal terms that are used in cases filed under the Bankruptcy Code.

BANKRUPTCY

ADMINISTRATOR An officer of the Judicial Districts of Alabama and North Carolina who, like the United States Trustee, is responsible for supervising the administration of bankruptcy estates, and, therefore, monitoring plans and disclosing statements, managing creditors' committees, monitoring fee applications, and performing other statutory duties.

BANKRUPTCY CODE

The informal name for title 11 of the United States Code (11 U.S.C. §§ 101-1330). the federal bankruptcy law.

BANKRUPTCY COURT

The bankruptcy Judges In regular active service in each district: a tenth of the district court.

BANKRUPTCY ESTATE

All legal or equitable interests of the debtor in property at the time of the bankruptcy filing. [The estate includes all property in which the debtor has an interest, even if it is owned or held by another person.]

BANKRUPTCY JUDGE

A judicial officer of the United States district court who is the court official with decision-making power over federal bankruptcy cases.

BANKRUPTCY Mill

A business not authorized to practice law that provides bankruptcy counseling and prepares bankruptcy petitions.

BANKRUPTCY PETITION

A formal request for the protection of the federal bankruptcy laws. (There is an official form for bankruptcy petitions.)

BANKRUPTCY TRUSTEE

A private individual or corporation appointed in all chapter 7, chapter 12, and chapter 13 cases to represent the interests of the bankruptcy estate and the debtor's creditors.

BUSINESS BANKRUPTCY

A bankruptcy case in which the debtor is a business or an individual involved in business and the debts are for business purposes.

CHAPTER 7

The chapter of the Bankruptcy Code providing for "liquidation." i.e., the sale of a debtor's nonexempt property and the distribution of the proceeds to creditors.

CHAPTER 7 TRUSTEE

A person appointed in a chapter 7 case to represent the interests of the bankruptcy estate and the unsecured creditors. (The trustee's responsibilities include reviewing the debtor's petition and schedules,

liquidating the property of the estate, and making distributions to creditors. The trustee may also bring actions against creditors or the debtor to recover property of the bankruptcy estate.)

CHAPTER 11

A reorganization bankruptcy, usually involving a corporation or partnership. (A chapter 11 debtor usually proposes a plan of reorganization to keep its business alive and pay creditors over time. People in business or individuals can also seek relief in chapter 11.)

CHAPTER 12

The chapter of the Bankruptcy Code providing for adjustment of debts of a "family farmer," as that term is defined in the Bankruptcy Code.

CHAPTER 13

The chapter of the Bankruptcy Code providing for adjustment of debts of an individual with regular income. (Chapter 13 allows a debtor to keep property and pay debts over time, usually three to five years.)

CHAPTER 13 TRUSTEE

A person appointed to administer a chapter 13 case. (A chapter 13 trustee's responsibilities are similar to those of a chapter 7 trustee; however, a chapter 13 trustee has the additional responsibility of overseeing the debtor's plan, receiving payments from debtors, and disbursing plan payments to creditors.)

CLAIM

A creditor's assertion of a right to payment from a debtor or the debtor's property.

COMPLAINT

The first or initiatory document in a lawsuit that notifies the court and the defendant of the grounds claimed by the plaintiff for an award of money or other relief against the defendant.

CONFIRMATION

Approval of a plan of reorganization by a bankruptcy judge.

CONSUMER BANKRUPTCY

A bankruptcy case filed to reduce or eliminate debts that are primarily consumer debts.

CONSUMER DEBTS

Debts incurred for personal, as opposed to business, needs.

CONTINGENT CLAIM

A claim that may be owed by the debtor under certain circumstances, for example, where the debtor is a cosigner on another person's loan and that person fails to pay.

CREDITOR

A person to whom or business to which the debtor owes money or that claims to be owed money by the debtor.

DEBTOR

A person who has filed a petition for relief under the bankruptcy laws.

DEFENDANT

An individual (or business) against whom a lawsuit is filed.

DISCHARGE

A release of a debtor from personal liability for certain dischargeable debts. A discharge releases a debtor from personal liability for certain debts known as dischargeable debts (listed below) and prevents the creditors owed those debts from taking any action against the debtor or the debtor's property to collect the debts. The discharge also prohibits creditors from communicating with the debtor regarding the debt, including telephone calls, letters, and personal contact.)

DISCHARGEABLE DEBT

A debt for which the Bankruptcy Code allows the debtor's personal liability to be eliminated.

DISCLOSURE STATEMENT

A written document prepared by the chapter 11 debtor or other plan proponent that is designed to provide "adequate information" to creditors to enable them to evaluate the chapter 11 plan of reorganization.

EQUITY

The value of a debtor's interest in property that remain after all other creditors' interests are considered. (Example: If a house valued at \$60,000 is subject to a \$30,000 mortgage, there is \$30,000 of equity.)

